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Supreme Court of the United States

OCTOBER TERM, 1944

No. [redacted] 121

MANHATTAN LIGHTERAGE CORPORATION,
Petitioner,

against

ERNEST ANDERSON, et al.,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT AND BRIEF IN SUPPORT THEREOF

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INDEX

PAGE

PETITION FOR WRIT OF CERTIORARI:

Statement 2

Facts 3

Duties of Captains 7

Conflict of Circuits 11

The Circuit Court of Appeals Failed to Give Full Effect to the Opinion of This Court in *Norton* v. *Warner Co.* 14

Jurisdiction to Review 16

Question Presented 17

1. The question as to the meaning of the Section 13a()(3) exemption 17

Reasons Relied On for Allowance of the Writ 17

BRIEF IN SUPPORT OF THE PETITION:

POINT I—Respondents are seamen—their duties are maritime in character and are rendered primarily on vessels in commerce in navigable waters 19

POINT II—The legislative history supports petitioner's contention that respondents are seamen within the meaning of the Fair Labor Standards Act 24

(a) The Fair Labor Standards Act of 1938 became a law at a time when the meaning of comparable terms of exclusion in other remedial statutes had been crystallized by decisions in the Federal courts 24

PAGE

(b) The benefits reserved to seamen under the General Maritime Law offset the usual assumption that exemptions in remedial statutes are to be narrowly construed..... 26

(c) The hearings on the Black-Connery Bill, as well as legislative debate indicate that the term "seamen" as used in Section 13 (a) (3) of the Act was not intended to have a restricted meaning..... 27

POINT III—This case calls for an exercise of this Court's power of supervision..... 32

CONCLUSION 33

APPENDIX 35

CASES CITED

PAGE

Alien v. Hallett, 1 Fed. Cas., p. 472 21

American Seating Co. v. Zell, 322 U. S. 709 32

Arnesen, et al. v. Manhattan Lighterage Corporation, Johnson, et al. v. same, 57 F. Supp. 218 19

Berwind-White Coal Mining Co. v. Rothensies, 45 F. Supp. 55 ..... 25, 26

Buena Ventura, The, 243 Fed. 797, 2nd case 21, 22

Carumbo v. Cape Cod S.S. Co., 123 F. (2d) 991 ..... 20, 26

Cassaretakis' Case, 289 N. Y. 119 21

De Gaetano v. Merritt & Chapman Derrick & W. Co., 203 App. Div. 259 21

DeWald v. Baltimore & O. R. Co., 71 F. (2d) 810, 813 (C. C. A. 4) 20, 24

Disbrow v. Walsh Bros., 36 Fed. 607 (S. D. N. Y.) 16, 22

Ellis v. United States, 206 U. S. 246 ..... 20, 28

Gale v. Union Bag & Paper Corporation, 116 F. (2d) 27 (C. C. A. 5), cert. den. 313 U. S. 559 (1940) 12, 14, 20, 23, 25, 27, 31

Gay v. Ruff, 292 U. S. 25, 28-31 32

Grimberg v. Oriental S.S. Line, 300 Fed. 619 ..... 21, 22

International Stevedoring Co. v. Haverty, 272 U. S. 50 ..... 20, 24, 25

J. S. Warden, The, 175 Fed. 314 22

Kuhlman v. W. & A. Fletcher Co., 20 F. (2d) 465 21

Lawrence, et al. v. Flatboat, 84 Fed. 200, aff'd p. c. 86 Fed. 907 22-23

PAGE

Lowrimoore v. Union Bag & Paper Corporation, 30 F. Supp. 647, 649 ..... 12, 13

Martin v. Acker, 16 Fed. Cas., p. 884 22

Mary Elizabeth, The, 24 Fed. 397 ..... 21, 22

Meyer v. Dollar S.S. Line, 43 F. (2d) 425 22

Nogueira v. New York, New Haven & Hartford Railroad Co., 281 U. S. 128 20

North America, The, 18 Fed. Cas., p. 339 21

Norton v. Warner Co., 321 U. S. 565 ..... 14, 15, 16, 22, 25, 26, 27

Ocean Spray, The, 18 Fed. Cas., p. 558 22

Rogosich v. Union Dry Dock & Repair Co., 67 F. (2d) 377 21

Sallie, The, 167 Fed. 880 22

Saylor v. Taylor, 77 Fed. 476 (C. C. A. 4) 21, 22, 23

Sea Lark, The, 14 F. (2d) 201; W. D. Wash. 22

South Chicago Co. v. Bassett, 309 U. S. 251 14

Tucker v. Norton, 56 F. Supp. 61 22

United States v. Atlantic Transport Co., 188 Fed. 42 21

United States v. Thompson, 28 Fed. Cas., p. 102 22

United States Lighterage Co. v. Jane M. Hoey, 142 F. (2d) 484 (C. C. A. 2) 22

Virginia Belle, The, 204 Fed. 692 22

Walling v. Great Lakes Dredge & Dock Company, ... F. (2d) ..... (decided April 24, 1945) 14

OTHER AUTHORITIES

PAGE

Fair Labor Standards Act 2, 4, 11, 17, 20, 23, 24, 25, 27, 29, 30, 31, 32

General Maritime Law 26

Judicial Code, Section 240(a) 16

Longshoremen's and Harbor Workers' Compensation Act 15, 20, 24, 25

Merchant Marine Act 20, 24, 25

Public Health Law 25

Social Security Act 14, 20

The Journal of Commerce, March 7, 1945, p. 18 30

24 U. S. C. Sec. 1 27

75th Congress, 1st Session, pp. 1216-17 ..... 28, 29

75th Congress, 1st Session, pp. 544-9 30

81 Congressional Record 6894 28

81 Congressional Record 7784 31

81 Congressional Record 7792 31

81 Congressional Record 7875 ..... 12, 31

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No.

MANHATTAN LIGHTERAGE CORPORATION,
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against

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Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

TO THE HONORABLE THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Your petitioner, Manhattan Lighterage Corporation, a New York corporation, prays for a writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit to review its order entered April 23, 1945 (R. Vol. B, pp. I-VII),* reversing judgments of the United States District Court for the Southern District of New York, entered September 21, 1944, dismissing respondents' com-

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* References are: D. A.—Defendant's Appendix; R.—Transcript of Record.

plaints herein (R. Vol. A, pp. 28-31). A certified transcript of the record in this case, including the proceedings in the said Circuit Court of Appeals, is furnished herewith in accordance with Rule 38, paragraph 1 of the Rules of this Court.

Statement

This case involves construction of the word "seaman" as used in Section 13 (a) (3) of the Fair Labor Standards Act of 1938 (52 Stat. 1060, 1067; 29 U. S. C. Secs. 201, 213) defining one of the classes of employees exempt from the provisions of said Act. The text of this exemption is as follows:

> "The provisions of Sections 6 and 7 shall not apply with respect to * * * (3) any employee employed as a seaman * * *."

This suit is for overtime compensation plus an additional equal amount as liquidated damages. Respondents' claims comprise all of the causes of action against petitioner in two suits in the District Court against petitioner and sixteen other corporations or companies; these claims were severed and the severed causes consolidated for separate trial. On motions for summary judgment by petitioner under Rule 56 of the Federal Rules of Civil Procedure, the District Court granted petitioner's motions and dismissed the complaints with opinion to effect that as respondents' own testimony and affidavits established that they are employed on vessels in commerce in navigable waters, as they have a degree of permanency in their connection with the vessels characteristic of ships and crews, as they are subject at least in a measure to the risks of sea-

men, as they are bound to the vessel on long trips out of the harbor as required, as they are entitled to maritime liens as security for wages; and as "the primary duty of each of the plaintiffs was the care, inspection and maintenance of the vessel", that they are seamen and excluded from coverage by the Section 13 (a) (3) exemption.

The Circuit Court of Appeals, disregarding settled law on the meaning of "seaman" generally, and in particular judicial interpretation of that word as used in the Fair Labor Standards Act, and overlooking the broad purposes of the bill's enactment as outlined by President Roosevelt in his address urging passage of this legislation, reversed the District Court and remanded the causes for what must be, unless this petition is granted, lengthy, costly and unnecessary trials. Petitioner's petition for rehearing was denied (R. Vol. B, p. XV).

Facts

Petitioner made its motions for summary judgment in the District Court relying upon examinations of respondents as adverse witnesses before trial. Petitioner's theory was and is that respondents' own testimony shows conclusively that they are seamen and, therefore, not covered by the Fair Labor Standards Act. The facts appearing in the record, including a short formal affidavit by petitioner's President (as to the facts of which there is no dispute) and in the depositions and affidavits of respondents are summarized as follows:

Petitioner is in the business of lightering cargo between ships, to and from ships and docks, and from points between docks in greater New York harbor and in the rivers

and harbors contiguous thereto and elsewhere (D. A. 19, 20, 22, 29, 63, 66, 97, 125). In this business it operates numerous self-propelled vessels including tugs and steam lighters (R. Vol. A, p. 21).

For the purposes of this petition and the appeal, petitioner concedes that respondents employed on its barges or lighters were at all material times engaged in interstate commerce within the meaning of the Fair Labor Standards Act (52 Stat. 1062, 1063, 29 U. S. C. Secs. 206, 207).

Respondents were employed on four different types of vessels, namely, covered barges, gasoline-hoist lighters, tank barges, and gasoline-hoist lighters not rigged for hoisting. All of these craft are non-self-propelled, except that the gasoline-hoist lighters are moved short distances by attaching a rope to the point toward which the lighter is to be moved and winding up the rope on the power-driven windlass of the lighter (infra, p. 10), and the covered barges are moved short distances by hand when the captain winds up a rope on the barge's capstan (infra, p. 10).

Although the present operations, due to existing abnormal conditions, involve transportation of general cargo principally within the harbor of greater New York (D. A. 20, 29, 66, 125), these operations are not strictly so confined and have extended to points as far north as Troy and Green Island, and tank barges carry bulk cargo to Peekskill, N. Y., Guttenberg, N. J., and Kearny, N. J. (D. A. 19, 20, 22, 63, 97). It is a part of respondents' duties to accompany the barges or lighters as required to such other points as may be determined by the requirements of petitioner's contracts of affreightment (D. A. 32, 33, 65, 66).

All of these craft have Custom House numbers and Consolidated Certificates of Enrollment and License issued by the Department of Commerce and approved by the Surveyor of Customs authorizing them to participate in the coasting trade (D. A. 38, 53, 54, 78, 94; R. Vol. A, p. 21). The lighters or barges have flat decks upon which cargo is loaded and hatchways leading into holds where spare ropes and tackle are kept (D. A. 10, 78, 80, 81). They have cabins furnished with bunks, tables and some cooking facilities which are available for use by the lighter catains (D. A. 8, 9, 13, 19, 21, 32, 44, 54, 68, 69, 82, 83, 105, 106, 117) and are occasionally used (D. A. 8, 9, 19, 21, 65, 83, 105).

Generally speaking, a lighter captain neither sleeps on nor takes his suppers aboard the barge, but is prepared to do so when his presence is required (D. A. 33-34, 106). The cooking facilities are used to prepare coffee and sometimes potatoes, soup and the like (D. A. 13, 19, 21, 32, 83, 105, 117). During the long tows above referred to or when towing at night, the captain sleeps on board (D. A. 33, 34, 46).

They often work many hours in excess of eight hours in a single day, for which, pursuant to collective bargaining agreement, they receive compensation at the rate of time and a half (D. A. 48, 106, 117, 118).

The covered barges have a housed-in portion above the deck and the cabin is either on top of this covered portion, sometimes called the freight house, or on the stern. The barges are equippd with two bilge pumps which are hand-operated, one at the bow and one at the stern, serving the port and starboard corners, depending upon the vessel's trim (D. A. 2, 11, 28, 60, 61, 100). Some of the barges are equipped with portable gasoline-pumps to supplement

the hand operated pumps in emergencies (D. A. 8, 90, 91, 102, 103). They usually have four hatchways, two at the bow and two at the stern on the port and starboard sides of the center bulkhead (D. A. 115).

The gasoline-hoist lighters have masts and booms used for loading cargo. They are equipped with tarpaulins used to cover and protect cargo (D. A. 8, 114). These lighters, as well as tank barges, usually have two pumps of the same type as those on covered barges and in addition have gasoline-powered pumps with suction leads to the bow and stern corners across from the hand-operated pumps (D. A. 2, 42, 43) and, like the covered barges, may also have portable gasoline pumps (D. A. 8).

Respondents are entitled to free treatment at United States Marine Hospitals (D. A. 112) and may obtain naturalization under the Seamen's Act (D. A. 58). They are entitled to wages, maintenance and cure, maritime liens as security for wages and they may sue under the Jones Act (*infra*, pp. 22, 23).

They are subject to perils and accidents of the sea, as when the lighter *Orange* broke away from her stakeboat in a storm (D. A. 57, 58), or when the *Biltmore* went down at Pier 32, North River, after she sprang a leak and the "water came in like a river" (D. A. 118), or when the *Manhattan 50* collided with canal fenders near Troy (D. A. 63-65), or when Lars Carlsen was awakened from his sleep by water flooding his cabin when the *Palm* sank at Guttenberg, N. J. (D. A. 22), or when Olaf Knudsen's lighter went down under him when under tow off Staten Island (D. A. 28, 29), or when the *Paramount* caught fire when loading at Spencer Kellogg's (D. A. 78, 79).

Duties of Captains

Respondents working on barges having hoisting apparatus are responsible for the condition of the engine (D. A. 50, 51). They attend to refueling, oiling and routine maintenance by using tools supplied for that purpose (D. A. 3, 4, 24, 25, 45, 46, 50, 71, 75, 76, 84, 113, 120), and in cold weather, they drain off water so that the cylinder blocks will not crack (D. A. 25, 76, 84, 88, 113) or put antifreeze into the engine (D. A. 120). They heat up water on the crafts' stoves to help start the engine in cold weather (D. A. 54), or run the stove to protect the engine from freezing (D. A. 84). When the engine requires repairs, they report this condition to petitioner (D. A. 45, 51, 88, 113, 120). When cargo is loaded or unloaded these respondents, and, contrary to the opinion of the Circuit Court of Appeals (R. Vol. B, p. III), only these respondents, operate the engine which powers the cargo hoists (D. A. 45, 112, 113) and in this respect they characterize themselves as engineers (D. A. 75). They are sometimes called upon to steer the lighter when towing at night (D. A. 48).

Except when the lighter is under charter, the duties of a captain, irrespective of whether employed on a covered barge or a gasoline-hoist lighter, include tallying cargo and receipting therefor when tendered (D. A. 14, 36, 47, 56, 57, 74), noting by exceptions the condition of cargo on delivery, at the same time keeping a record of all shortages and apparent damage (D. A. 112, 113, 124). These duties may take the captain onto the pier (D. A. 123). He may deliver cargo manifests or tallies to steamship companies' receiving clerks (D. A. 53, 56, 57).

All of a lighter captain's duties are "in conjunction with a lighter" (D. A. 123), and he performs his duties over a

period of years on a particular lighter (D. A. 38, 49, 50, 62, 73, 74, 80, 86, 90, 94, 103, 109, 115), except in the case of a relief captain (D. A. 23). It is not uncommon that when a lighter is purchased by petitioner, the lighter captain will stay with his boat and come into the employ of petitioner with the lighter (D. A. 50, 68, 80).

The primary duties of respondents require their presence on board the lighters (D. A. 3, 5, 47, 53, 57-59, 70, 79, 83-85, 101, 102, 106, 109) and all of their duties contribute to the welfare and operation of the vessels (D. A. 3-6, 17, 20, 25, 27-31, 47, 48, 56-59, 70-72, 79, 85, 86, 87, 110-112).

Respondents are authorized, in the absence of performance of that function by runners or by the lighter foreman, to hire necessary labor to load and unload cargo (D. A. 14, 112, 123), and to direct and supervise loading and stowage (D. A. 13, 63, 71, 72, 112), which is primarily work on the lighter (D. A. 47, 106, 107). They may hire a mate to assist in loading and unloading cargo (D. A. 46-49).

Supervision of loading and stowage takes into account the requirements of seaworthiness (D. A. 41, 42, 72, 79), trimming cargo to the pumps (D. A. 11, 42, 43, 61, 90), and directions to the loading crew not to load the lighter beyond her freeboard limitations (D. A. 11, 47, 79, 109, 110), and otherwise to take measures to secure the safety and seaworthiness of the lighters (D. A. 87, 101, 102, 109-112).

On occasions where through labor shortages, it is impossible for petitioner's foreman, runners or respondents themselves to obtain adequate crews to handle cargo, the captains may themselves assist in loading and unloading (D. A. 14, 63, 92), but while loading they are limited to work on board their own lighters (D. A. 106, 107). This

participation is exceptional and is work for which the captains are paid additional compensation (D. A. 14). Respondents in their affidavits submitted in opposition to the motions for summary judgment claimed that work of this kind took up about 95% of their working time (D. A. 123, 124), except that work of comparable character performed by respondent Lars Carlsen, a tank bargee, is said to have consumed about 90% of his working time.

The captains notify petitioner when a barge or lighter is light and when loaded and ready to tow (D. A. 91). They are always on board when towing during the day (D. A. 91, 98, 114), and may be on board when towing at night (D. A. 48, 114, 121, 122). While under tow they may act as lookouts (D. A. 85).

The lighter captain is in full charge of his vessel (D. A. 72, 106) and inspects the same and her equipment from time to time (D. A. 7, 11, 17, 18, 24, 25, 31, 32, 41, 43, 44, 52, 56, 70, 87, 95-97) and reports to petitioner (D. A. 27, 31, 32, 41, 42, 56, 70, 78, 79, 89, 96, 101).

When necessary the captain pumps water from the hold (D. A. 2, 3, 13, 14, 18, 24, 28, 42-44, 61, 62, 73, 81, 82, 95, 99, 101, 110) and reports any defective condition of the pumps to petitioner (D. A. 4, 99). He is charged with the responsibility of proper securing of lines (D. A. 5, 6, 97, 103) and takes a hawser from the tug and places the eye of the hawser over the towing bitt on the lighter (D. A. 9, 26, 47, 48, 73, 82, 97, 98, 102, 113).

The captain directs the tug to place the lighter in a proper berth (D. A. 26, 93, 103, 104). He has a knowledge of tides (D. A. 5, 12, 21, 29, 76, 77, 97, 103, 104, 121), and uses the tides to assist in shifting the lighter from an unsafe to a safe berth (D. A. 121).

When the lighter has been improperly berthed, the lighter captain notifies petitioner, or requests the tug captain to move her to a safe berth (D. A. 70).

He also moves the lighter by operating a capstan or winch (D. A. 9, 30, 51, 52, 70, 77-78, 87, 121) or hires a crew to shift the lighter either to take on cargo (D. A. 52), or to obtain a safer berth (D. A. 30, 121).

If a leak is detected in the hold by the captain he caulks leaky seams with oakum, cloth, wood or wire (D. A. 7, 11, 13, 25, 62, 63, 96, 104) or reports the leakage to petitioner (D. A. 31, 42, 69, 70). He knows when it is safe and when it is dangerous to attempt to caulk a seam from within the hull (D. A. 104, 105). When leakage becomes so serious as to render ineffective the barge's pumping equipment he summons a tug to assist in pumping (D. A. 6, 28, 44, 62, 82, 92, 93, 96, 101, 102, 111) and he may help the tug's crew to place the siphon (D. A. 62, 102).

When cargo is loaded he is responsible for the barge's trim in matters pertaining to seaworthiness (D. A. 3, 79, 92, 95), and in particular he sees that the cargo is trimmed to that corner of the bow or stern equipped with a bilge pump so that the pump may be operated by him with maximum efficiency (D. A. 2, 3, 11, 42, 43, 56, 61, 90, 95, 100).

He handles lines (D. A. 5, 6, 9, 12, 20, 21, 26, 29, 56, 64, 65, 70, 71, 88, 89, 103, 116, 117), and at piers sees to it that the spring and breast lines have sufficient lead to compensate for the rise and fall of the tide (D. A. 5, 12, 21, 29, 70, 71, 76, 77, 89, 97, 111). He may put wooden scantlings or fenders along the side of the lighter to protect her when bumping against ships or piers (D. A. 25, 37, 66, 67).

Before cargo is loaded or discharged the captain supervises or assists in securing the barge to the dock-side by

the use of breast lines (D. A. 97-98). He keeps a daily record of loading and discharging of cargo which is delivered to petitioner each week; the captain calls this record a log (D. A. 93). He takes whatever measures are at hand to prevent damage to the lighter by approaching craft (D. A. 35, 36).

He splices lines (D. A. 4, 5, 72, 98), splices eyes on hawsers (D. A. 5, 72, 113). He drives nails into loose planks (D. A. 99) and secures the skid for working cargo (D. A. 51).

He may put out navigation lights either while in tow or before leaving the lighter at night (D. A. 20, 34, 35, 83, 121, 122). It is his responsibility when towing at night to see that the lights are properly placed (D. A. 34, 35, 83). In order to properly handle lights he may receive instructions from petitioner (D. A. 83).

When the lighter is under charter, respondents report to charterer on matters pertaining to cargo and to petitioner on matters pertaining to the condition of the lighter (D. A. 36, 52, 53, 75, 84, 85, 93, 94), and when under charter, respondents have no duties in connection with loading and unloading cargo, or receipting for or tallying cargo (D. A. 36, 119).

Conflict of Circuits

Since June, 1938, until April 16, 1945, when the Circuit Court of Appeals handed down its opinion in this case, there had been no doubt in the minds of those operating vessels as a part of marine transportation that their employees whose duties were all "in conjunction with" these vessels were seamen and not covered by the Fair Labor Standards Act.

In the Senate discussion of the bill, its sponsor, Senator Hugo Black, now Associate Justice of this Court, stated that the bill was so drawn as to exclude "maritime workers" from coverage.*

The legislative history fully considered gave impetus to this construction, and by express invitation of responsible representatives of the important maritime unions, wage and hour conditions in the maritime industry were improved for labor through collective bargaining agreements so that now the only material discrepancy between conditions under which respondents are engaged and standardized conditions under the Act is that the effective wage and hour schedules have by collective bargaining been adapted to the unusual conditions of marine transportation.

Petitioner's construction of this statute received firm support in *Gale* v. *Union Bag & Paper Corporation,* 116 F. (2d) 27 (C. C. A. 5), cert. den. 313 U. S. 559 (1940). In that case, plaintiffs brought an action to recover overtime wages and liquidated damages under Sections 6 and 7 of the Fair Labor Standards Act. They were employed as barge tenders on defendant's fleet of barges which were non-self-propelled and were used to carry raw materials to defendant's plant at Savannah from points in Georgia, South Carolina and Florida. Plaintiffs performed duties usual to their occupation as they attended to lines, put out running and mooring lights and pumped out bilge water. They were furnished sleeping quarters which were available for their use and which they did use when the barges were under tow.

As appears from the District Court's findings of fact in *Lowrimoore* v. *Union Bag & Paper Corporation,* 30 F.

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* 81 Congressional Record 7875.

Supp. 647, 649, while the barges were at Savannah, plaintiffs cared for them, pumping out bilge water, but they did not eat on the barges and were free to go home. When several barges were at Savannah at one time, all of the duties were performed by a single barge tender and all the other bargees stayed at home. When a stage of the towage was completed, the tugs would leave the barges to be loaded by contractors.*

But the plaintiffs, as here, would see to it that the barges were "loaded evenly and not too near the edge" and while in tow plaintiffs, unlike respondents here, had no duties whatever with respect to navigation. When moored plaintiffs secured the lines or assisted in securing them and left sufficient slack to compensate for the rise and fall of the tide. The Circuit Court of Appeals held that these employees were seamen, saying:

> "The word 'seaman' has a plain, ordinary meaning universally applied. Whether a person is a seaman depends upon the character of his duties. If they are maritime in character and rendered on a vessel in commerce, in navigable waters, he is a seaman" (27-28).

There cannot be the slightest doubt that whether respondent's duties are regarded as in connection with the protection of the vessel or in connection with cargo, they

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* This compares to the situation when petitioner's lighters are under charter.

"Q. When you are under charter to the New York Central and Pennsylvania Railroad do you hire crews then? A. No.

Q. You never hire crews under charter? A. No" (Knudsen, D. A.).

* * * * * *

"Q. To whom were you responsible during that time for cargo? A. I could not tell you because they loaded the boats at night and we did not sign for anything on the railroads.

Q. In other words, when under charter you did no loading or unloading? A. No, sir" (Peterson, D. A. 119).

are "maritime in character" and rendered on a vessel in commerce in navigable waters. It is clear that the rule of law determining status as applied in the *Gale* case, which this Court declined to review, cannot be of any continued force and effect if the opinion of the Circuit Court of Appeals that the exemption applies only to seamen on ocean going vessels except as limited by administrative interpretation is upheld.

The Court recognized that respondents were "members of the crew" as that term is used in the Social Security Act (R. Vol. B, p. V). The Circuit Court of Appeals for the Seventh Circuit in *Walling* v. *Great Lakes Dredge & Dock Company,* ..... F. (2d) ..... (decided April 24, 1945) held that employees on dredges are not seamen within the Section 13 (a) (3) exemption because they were not members of the crew within the meaning of *South Chicago Co.* v. *Bassett,* 309 U. S. 251. We therefore have the unusual situation where two Circuit Courts, both disregarding the decision in the *Gale* case, have held (a) that a member of a crew is not a seaman and (b) an employee is not a seaman because not a member of the crew.

It is submitted that only by granting this petition may this conflict be resolved.

The Circuit Court of Appeals Failed to Give Full Effect to the Opinion of This Court in *Norton* v. *Warner Co.*

In *Norton* v. *Warner Co.,* 321 U. S. 565, the plaintiff was employed as a barge captain on a vessel having no motive power of her own but, as in the case at bar, was capable of being moved short distances by winding up a cable by hand-

operated capstan. There, as here, the barge was a documented vessel of the United States and there her operations were strictly confined within a radius of thirty miles of the Port of Philadelphia. Plaintiff lived on board the barge and was paid an hourly wage, as well as a monthly salary. All of his experience as a seaman was obtained as a bargee. His duties consisted of taking care of the barge generally, tightening or slackening the lines when necessary. He took lines from tugs, pumped bilge water, put out navigation lights, took orders from the tug boat while under tow and moved the barge short distances by operating the capstan.

The Deputy Commissioner assumed jurisdiction under the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1924, 33 U. S. C. Sec. 901) and his award was upheld by the District Court (45 F. Supp. 835). The Circuit Court of Appeals for the Third Circuit reversed (137 F. (2d) 57). This Court affirmed the Circuit Court of Appeals holding that plaintiff's duties were essential for the purposes of the vessel and that plaintiff "moreover had that permanent attachment to the vessel which commonly characterizes a crew" (757).

The record shows that respondents have far more of a permanent attachment to their craft than is shown by the record in the *Warner* case, viz.: they had in several instances remained with their craft even when purchased by another company (D. A. 50, 68, 80), and although the petitioner owns many vessels of more or less the same type, it is the usual case where each lighter captain remains on one lighter for a great many years (D. A. 38, 49, 50, 62, 73, 74, 80, 86, 90, 94, 103, 119, 115). It cannot be contended that any of respondent's duties were other than essential

to the purposes of their vessels within the meaning of the *Warner* decision. True it is that the record in the *Warner* case does not indicate that plaintiff Rusin loaded or unloaded cargo, but in deciding that he was a member of the crew, this Court at page 572 of its opinion relied upon *Disbrow* v. *Walsh Bros.*, 36 F. 607 (S. D. N. Y.), holding that bargees were seamen notwithstanding that "The chief part of their work was loading and unloading the cargo" (608).

Apparently the Circuit Court also overlooked the footnote to this Court's decision in the *Warner* case wherein the Court said:

> "'Seamen' as used in a particular context may of course have a broader meaning than 'crew'. *International Stevedoring Co.* v. *Haverty*, 272 U. S. 50. And see *Carumbo* v. *Cape Cod S.S. Co.*, 123 F. 2d 991" (572).

We submit that in considering the conflict of circuits, this Court may well consider whether proper effect has been given to its decision in the *Warner* case so as to justify issuance of a writ of certiorari.

Jurisdiction to Review

The jurisdiction of this Court is invoked under Judicial Code, Section 240 (a) as amended by Act of February 13, 1925 (43 Stat. 938, 28 U. S. C. Sec. 347 (a)). The date of the order of the Circuit Court of Appeals for the Second Circuit to be reviewed is April 23, 1945.

Question Presented

1. The question as to the meaning of the Section 13(a)(3) exemption.

Whether the Court is justified in limiting the meaning of an exemption even though from a remedial statute where the meaning of exemption phraseology has by long-established precedent repeatedly enunciated acquired a meaning rendering interpretation unnecessary, and by so doing cast upon an industry years of accumulated overtime pay and penalties.

Reasons Relied On for Allowance of the Writ

1. The Circuit Court of Appeals in determining the non-exempt status of respondents, has applied a rule of law in conflict with prior construction of the same exemption by the Fifth Circuit.

2. The granting of a writ of certiorari will bring before this Court a question of interpretation of an exemption provision in an important Federal statute which has never before been considered by it except by denial of a writ of certiorari.

WHEREFORE, petitioner respectfully prays that a writ of certiorari be issued out of and under the seal of this Court directed to the United States Circuit Court of Appeals for the Second Circuit at New York, New York, requiring said Court to certify and send up to this Court on a date to be designated a full and complete transcript of the record and

of all proceedings in the Circuit Court of Appeals had in this action to the end that this action may be reviewed and determined by this Court; and the order of the Circuit Court of Appeals be reversed; and that your petitioner be granted such other and further relief as may seem proper.

MANHATTAN LIGHTERAGE CORPORATION,
By CHAUNCEY I. CLARK,
HERBERT M. LORD,
Counsel for Petitioner.

New York, N. Y.,
June 6, 1945.